



DATA PROTECTION & CONTINUITY OF LEARNING



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CONSIDERATIONS

During these unprecedented times of isolation and uncertainty, we would like to work with districts to help them understand how Education Law 2-D and Part 121 of the Commissioner’s Regulations apply to providing instruction using online tools with students.

You might be wondering, "What is OK to use?" There is not a simple answer to that question. Using technology platforms such as Google Hangouts, Microsoft Teams, Cisco Webex, and Zoom are proving to be effective ways for teachers to stay connected with students and with one another - but we as a school community must make an effort to protect student information and staff data, even during these uncertain times.

Below are considerations for school districts, teachers, and families when using these tools:

FOR SCHOOL DISTRICTS



- Consider using your local BOCES service, rather than tackling data privacy on your own.
- Consider using those online tools you were already using before this crisis - rather than introducing something totally new into your district.
- Consider how the Child Online Privacy Protection Act (COPPA) may limit student instruction with online tools for students under the age of 13 years old.
- Consider what should or should not be recorded in an online instructional session.
- Consider how to limit access to the online instructional sessions.
- Avoid using “free” educational applications.

FOR TEACHERS



- Only use the tools that your district has approved - do not use free tools independently that are not approved by your district.
- Do not share your or students’ Personally Identifiable Information (PII) in online settings.
- Examples of PII are described on subsequent pages of this document.

FOR FAMILIES



- Be sure the tools your student is using to complete assignments and communicate with teachers are approved by your school district.
- It’s always a good idea to monitor your child’s Internet use.
- If multiple family members are using the same devices throughout the day, be sure to log out between different family members.

THIRD-PARTY CONTRACTORS & DISTRICT REQUIREMENTS

Data privacy and security obligations related to third-party contractors must be addressed by the district entering into a compliant agreement with vendors to whom they are providing protected Personally Identifiable Information (PII). An agreement that covers the requirements defined by Ed Law 2-D must exist either directly between the school district and the product vendor, or, if the product is part of a service obtained through a BOCES CoSer, an agreement between that BOCES and the product vendor. **A vendor cannot achieve compliance unilaterally.**

COMPLIANCE ASSESSMENT QUESTIONS

1. Is the information contained within the product considered student PII under FERPA, or does it contain personally identifiable components of teacher and principal evaluation data?

Information that, alone or in combination, is linkable to a specific student that would allow a reasonable person in the school community to identify the student. For example, but not limited to:

- Student Name
- Student ID Number
- Student Email Address
- Contact Names
- Student or Contact Addresses
- Student Photos
- Video of Students
- Student Birthdate
- Student Birthplace
- Student Medical Information
- Special Education Information
- Teacher & Principal Evaluation Data

Please be aware this applies to any information that may be entered into or created at any point, by any user, including: students, faculty, administration, integration routines, etc.

2. How is our district procuring the product?

The method of procurement is important. If a district procures a product directly from a vendor, whether it is a paid platform or the district “signs up” for a free service, your district is entering into a contract with the vendor. You should make sure that district contracting procedures are followed and that the agreement with the vendor includes the provisions required by law.

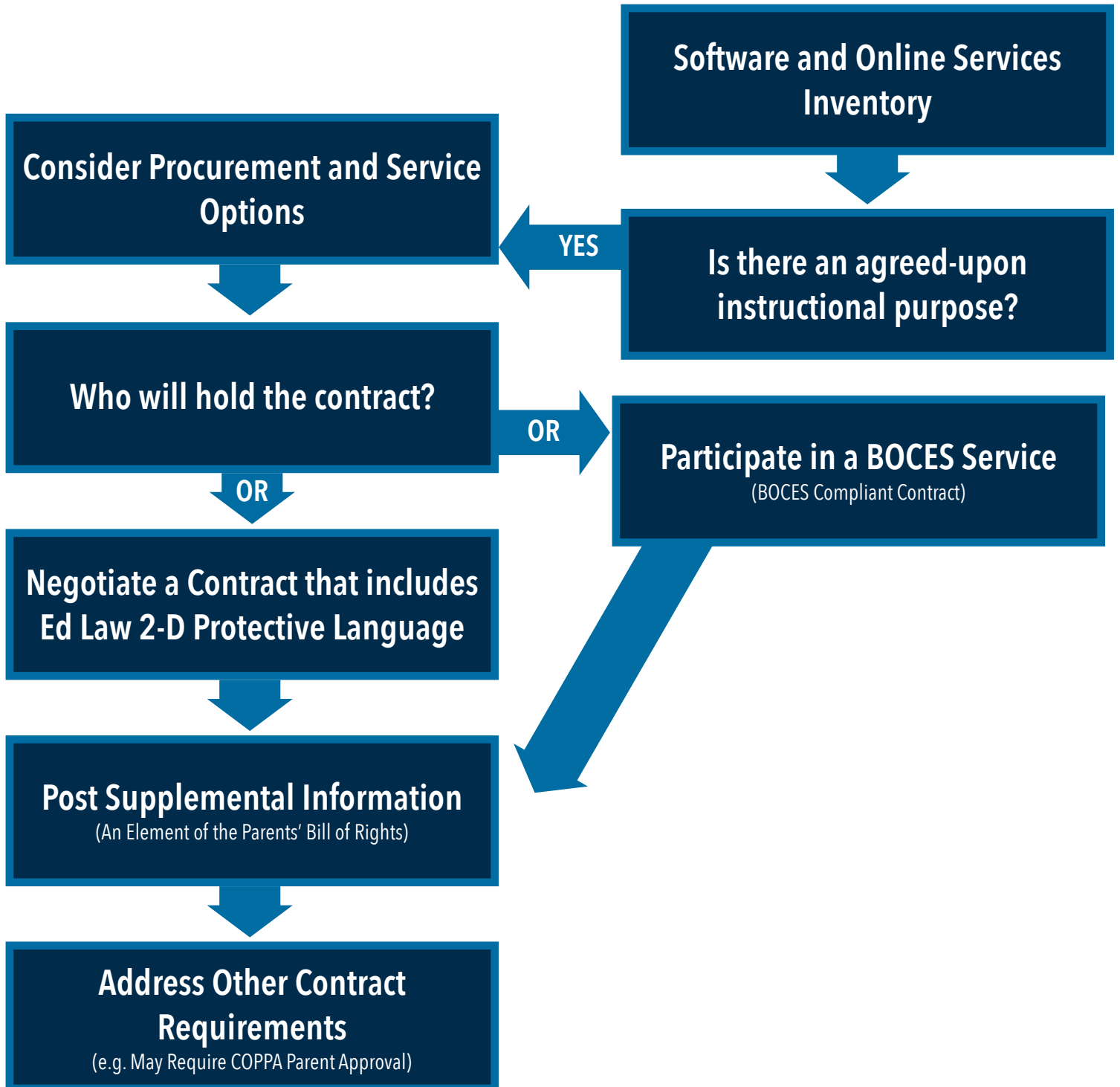
It is important to note, even though a compliant agreement may exist between a BOCES and a vendor, if a district does not obtain the product as part of a service delivered through a BOCES CoSer, the BOCES-negotiated terms do not apply, and the district is responsible for negotiating its own agreement.

3. Does the agreement we have with the vendor address all obligations under Ed Law 2-D?

- Signed Parent’s Bill of Rights
- Exclusive Purposes for Data Use
- Oversight of Subcontractors
- Contract Lifecycle Practices
- Data Correction Practices
- Data Security Protections
- Data Location
- Encryption Practices
- Data Return / Destruction Practices
- Data Security and Privacy Plan
- Unauthorized Release Notification
- NIST Safeguards
- Data Security Policy Compliance
- Limit Internal Vendor Data Access
- Data Security Protections
- Prohibitions on Commercial Use
- Data Confidentiality
- Vendor Staff / Subcontractor Training

CONTRACTORS SAMPLE APPROVAL PROCESS

Education Law 2-D and Part 121 protect the personally identifiable information (PII) of students, and certain teacher and educator evaluation data. Whenever the educational agency discloses PII to a third-party contractor, **agencies must ensure that the written agreement for using the product or services includes required language.** COPPA puts parents in control over what information is collected from children under 13 online. Schools may act as the parent’s agent and can consent to the collection of their child’s information on the parent’s behalf. Terms of Service may require school districts to provide notice and attain parent permission to use tools. **The process below can be used to implement software and online services.**



CONTRACTUAL CONSIDERATIONS

ARE ONLINE CONFERENCING SOLUTIONS COMPLIANT WITH EDUCATION LAW SECTION 2-D?

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REQUIREMENT CATEGORIES RELATED TO THIRD-PARTY CONTRACTORS

DATA SECURITY AND PRIVACY PLAN

CONFIDENTIALITY MAINTAINED

SUPPLEMENTAL INFORMATION FOR THE BILL OF RIGHTS

ADDITIONAL STATUTORY AND REGULATORY OBLIGATIONS

HOW DOES YOUR DISTRICT ACQUIRE THEIR ONLINE CONFERENCING SOLUTION?

- **LEVERAGE CONTRACT VIA BOCES/RIC CoSER**
- **CONTRACT DIRECTLY WITH VENDOR PARTNER** (Contracts Below N/A)

ONLINE CONFERENCING SOLUTIONS

All major online conference solutions have similar features, including: two-way video, text chat, telephone call-in capabilities, and screen sharing support. Each solution differs in the way accounts are managed and created and how online conferences are scheduled. Below is information related to how districts can procure these technologies. Erie 1 BOCES, Erie 2 BOCES, and Capital Region BOCES have partnered with the vendor community to negotiate contracts that include protective Education Law 2-D language. **Remember that vendors cannot achieve compliance unilaterally. Districts must leverage a procurement mechanism that includes a contract with protective language.**

GOOGLE HANGOUTS



ERIE 1 AGREEMENT
7710 Consortium, Ed Law 2-D Contract

- Requires district to sign the Google Opt-in Agreement through their local RIC.
- Available in the free G Suite for Education core services.

MICROSOFT TEAMS



ERIE 1 AGREEMENT
7710 Consortium, Ed Law 2-D Contract

- Requires district to procure licensing through their local RIC.
- Cost based on district FTE count for Microsoft Enrollment for Education (EES) Volume Licensing.

CISCO WEBEX



CAP BOCES AGREEMENT
Capital Region BOCES, Ed Law 2-D Contract

- Requires district to sign the CISCO Opt-in Agreement through Cap BOCES/NERIC.
- Cost based on district FTE count through participation in NERIC services.

ZOOM VIDEO COMMUNICATIONS



ERIE 2 AGREEMENT
Erie 2 BOCES, DL Consortium Contract

- Requires district to sign the Zoom Opt-in Agreement through their local BOCES/RIC.
- Cost varies based on district participation in BOCES/RIC Distance Learning Services.

Additional Resources - Online Conferencing Guidance: <https://sites.google.com/btbooces.org/bocesofnewyorkstateonlineconfe/home>



APPENDIX: STATEWIDE CONTRACTS





CONTRACTUAL RELATIONSHIPS

Data privacy and security obligations related to third-party contractors must be addressed by the district entering into a compliant agreement with vendors to whom they are providing protected Personally Identifiable Information (PII). An agreement that covers the requirements defined by Ed Law 2-D must exist either directly between the school district and the product vendor, or, if the product is part of a service obtained through a BOCES CoSer, an agreement between that BOCES and the product vendor. **A vendor cannot achieve compliance unilaterally.**

**STATEWIDE
 CONTRACT
 CONSORTIUMS THAT
 SUPPORT LEARNING
 TECHNOLOGIES**

**NYS Instructional
 Technology Contract
 Consortium**

**NYS Distance
 Learning Contract
 Consortium**

Districts need to procure these products through their local BOCES/RIC or a sister BOCES/RIC that participates in the Contract Consortium(s) and supports the product.

Please Note: All products listed have current contracts through June 30.

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

| NYSITCC Vendor | Software Tool |
|--------------------------|--------------------------------|
| 3D Bear | 3D Bear |
| 3rd L Corp | NY Learns |
| A+ Educators | Propel |
| | Target ED |
| | Woz U, Science Curriculum Only |
| Accelerate Learning | STEM Scopes |
| Achieve3000 | empowerPro |
| | eScience 3000 |
| | KidBiz3000 |
| | LevelSet eScience |
| | TeenBiz3000 |
| | SmartyAntz |
| | Spark 3000 |
| American Reading Company | School Pace / IRLA |
| Amplify | Amplify Science |
| Answer Pad | Answer Pad |



CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

| NYSITCC Vendor | Software Tool |
|----------------------------|------------------------|
| Bird Brain | Hummingbird |
| BK Interactive | Boardworks |
| Bridges Transitions | Choices (all products) |
| Bunceee | Bunceee |
| Certica | TestWiz |
| Charmtech Labs | CaptiVoice |
| Chester Technical Services | Virtuoso |
| Classlink | Classlink |
| Code Monkey | Code Monkey |
| Code Z - JZA Training | Code Z - JZA Training |
| Codesters | Codesters |
| Curriculum Associates | iReady (all products) |
| Curriculum Technology | Curriculum Mapper |
| Dreambox | Dreambox |
| eDoctrina | Accountability Suite |
| | BeHAVE |
| | Educator Suite |
| | rePORT Cards |
| | Question Bank Add Ons |
| Eduporium | Root Robotics |
| | Robo Wunderkind |
| | E-Blox |

CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

| NYSITCC Vendor | Software Tool |
|------------------------------|--|
| Edgenuity | My Path |
| Edmentum | Education City |
| Educational Vistas | Stafftrac |
| eSpark | eSpark |
| Explore Learning | Gizmos |
| | Reflex |
| Frontline Technologies | Evaluation |
| | Teachscape |
| | Guidance Direct |
| Gale | Miss Hubblebee's Academy |
| | Gale Interactive Science only (not database tools) |
| Google (7710 CoSer Contract) | G Suite for Education |
| Hapara | Hapara |
| Houghton Mifflin Harcourt | Read 180 |
| | System 44 |
| | Math 180 |
| | Reading Inventory |
| | Math Inventory |
| | Phonics Inventory |
| | iRead |
| iDesign | Vex Robotics |
| Illuminate | FastBridge Learning - FAST |

CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

| NYSITCC Vendor | Software Tool |
|--|--------------------------------|
| Imagine Learning | Imagine Espanol |
| | Imagine Language Literacy |
| | Imagine Math Facts |
| | Imagine Math |
| Interactive Media | Exploring Robotics |
| | Cubelets |
| | Dash-Dot |
| | Ozobot |
| | GoPiGo |
| | Airblock Drone |
| | Bolide |
| iSafe | iSafe |
| iStation | iStation |
| IXL Learning | IXL (all products) |
| Kinderlab Robotics | Kinderlab Robotics |
| Learning Ally | Learning Ally |
| learning.com | 21st Century Skills Assessment |
| | Easy Tech |
| | Inquiry |
| | TechLiteracy Assessment |
| | Digital Literacy Assessment |
| | WayFind |
| | Curriculum Publisher |

CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

| NYSITCC Vendor | Software Tool |
|---------------------------------|---|
| Learning Sciences International | iObservation |
| Learning Without Tears | Keyboarding Without Tears |
| Legends of Learning | Legends of Learning |
| LEGO Education | LEGO Education |
| Lexia Learning | Lexia Learning |
| LinkIt | LinkIt |
| Mad Learn | Mad Learn |
| Maker's Empire | Maker's Empire |
| Math Space | Math Space |
| McGraw-Hill | Acuity |
| | Aleks Math |
| | Redbird |
| Mid Research Institute | ST Math |
| Microsoft (7710 CoSer Contract) | Microsoft Enrollment for Education Solution (EES) |
| Music First | Music First |
| Naviance | Naviance |
| Nearpod | Nearpod (all products) |
| | Flocabulary |
| Net Ref | Net Ref |
| Newsela | Newsela |
| NWEA | NWEA MAP |
| | CPAA |

CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

| NYSITCC Vendor | Software Tool |
|---------------------------|---------------------------------|
| Oneder | Oneder |
| Pasco | Pasco |
| Pearson Digital Learning | SuccessMaker |
| | Write to Learn |
| | AIMS Web |
| | iLit |
| Renaissance Learning | SR |
| | STAR Early Literacy |
| | SM |
| | Accelerated Reader |
| | English in a Flash |
| | Accelerated Math |
| | Freckle SubText |
| Right Reason Technologies | Right Path |
| Rosetta Stone | Rosetta Stone |
| Rubicon West, Inc. | Atlas Curriculum Mapping System |
| Scientific Learning | Fast ForWord |
| Sensavis | Sensavis |
| ServiceInfinity | Maia Learning |
| SkyOp | SkyOp |

CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

| NYSITCC Vendor | Software Tool | |
|------------------------------------|---------------|-----------------|
| Suntext International | First in Math | |
| Taylor & Associates Communications | Reading Plus | |
| Tech 4 Learning | Wixie | |
| Tequipment | Lab Disc | Rotois |
| | NAO | Wonder Workshop |
| | SMART | Ozobot |
| | STEM Fuse | Evo |
| | Now Button | Pi-Top |
| | STEM IT | Sphero |
| | OTIS | KiBo |
| Thimble | Thimble Kit | |
| VidCode | VidCode | |
| Waterford | Waterford | |
| zSpace | zSpace | |

NEW RFP AWARDS *In Contract Negotiations*

| | |
|--|---|
| Core Four, Edsby | PlayVS |
| Dell, Advanced Learning Partnerships Firm, | Portfolium |
| Online PD | PowerSchool, United Talent Professional |
| Ed Puzzle | Learning System, Online PD |
| Fresh Grade | TEQ, Active Floor |
| Go Guardian, Teacher | Type To Learn |
| High School eSports League | Typing Pal Online |
| Impero, edTeach | |

CONTRACTUAL RELATIONSHIPS

NYS DISTANCE LEARNING CONTRACT CONSORTIUM

| NYS DLCC Vendor | Software Tool |
|------------------------|------------------------|
| Apex | Apex |
| Blackboard | Blackboard |
| Desire2Learn | Desire2Learn |
| Edgenuity | Edgenuity |
| Edmentum | Plato |
| eDoctrina | SOLe |
| FEV Tutor | FEV Tutor |
| Florida Virtual School | Florida Virtual School |
| Instructure | Canvas |
| iTutor | iTutor |
| Odysseyware | Odysseyware |
| Pearson | Grad Point |
| Right Reason | RightPath |
| Schoology | Schoology |

NEW RFP AWARDS *in Contract Negotiations*

Educere, MGRM Pinnacle, Otus,
Skooler, Spider Learning

OTHER STATEWIDE CONTRACTS

| Vendor | Software Tool | Contract Holder |
|--------|---------------|-----------------------------|
| Cisco | Webex | NERIC, Capital Region BOCES |
| Zoom | Zoom | Erie 2 BOCES |

